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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Delivered on July 3, 2007

\+ CRL.REV. P. 417/2007

K.L. BHASIN .....Petitioner

Through Mr. Yudhishtar Kahol, Advocate

versus

STATE THR. CBI ..... Respondent

Through Mr. R.M. Tiwari for CBI

CORAM:

Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? yes
2. To be referred to the Reporter or not? yes
3. Whether the judgment should be reported in the Digest? yes

Mr. Justice S. Ravindra Bhat (open Court)

1. Issue notice. Mr. R.M. Tiwari accepts notice and states that the petition can be disposed off at this stage. Heard with consent of counsel for the parties.

2. The petitioner assails an order on charge dated 16.03.07. He, along with other co-accused were charged with having committed offences, *inter alia*, under Sections 120B, 467, 468, 471, 490, 420 IPC read with Section 13 (1) (d), Prevention of Corruption Act, 1988 (hereafter called "the PC Act").

3. According to the prosecution, A-1, Virender Verma, a businessman had applied for credit facilities to the New Bank of India on 18.10.89. The application was on behalf of a newly constituted firm M/s MH Enterprises, for the purpose of

manufacture of ready made garments. The credit facilities sought for included a term loan for Rs. 2.80 lakhs (which was subsequently enhanced to Rs. 3 lakhs). The petitioner in this case, the Manager of the Bank, was approached by A-1; he was arrayed as Accused No.4.

4. The charge-sheet alleged that the petitioner did not carry out the pre-sanction inspection and protect the interests of the Bank suitably. According to the prosecution version, the pre-sanction investigation had mentioned about inspection of premises of A-1 i.e. A-26, Nangloi Extention, for setting up of the manufacturing unit. During the investigations, it was alleged by the (CBI in the charge-sheet) that such an address was non-existent. A-1 had submitted a rent deed during the investigation in support of his position that the premises were rented. According to the CBI, that was false as the rent deed was fabricated and the person alleged to be the land lord was also non-existant.

5. The order on charge noticed the contention on behalf of the petitioner that he was not at fault and had forwarded the request for loan to the appropriate superior, namely, the Regional Office which after being satisfied about the soundness of the venture, sanctioned the loan and other facilities. The trial Court went through the materials and rejected the contentions. It proceeded to frame the charges as it did in the impugned order.

6. It is contended by learned counsel by placing reliance on the inspection report dated 02.11.89 that all the formalities prescribed by the Bank and in conformity with the norms, had been carried out. According to the counsel, the petitioner/Accused A-4 was not alone when it came to sanctioning of the

facilities; the formalities were processed by the Manager as well as an inspecting officer. The proposal had been sent to the Regional Office which had sought for clarification on 28.10.89. Thereafter, on the basis the inspection, the query was replied on 03.11.89. Eventually, the facilities, particularly relating to the advance of Rs. 3 lakhs were sanctioned on 08.11.89 by the Deputy General Manager of the Bank. In these circumstances, the petitioner's role could not be isolated and held up for scrutiny in the criminal proceedings. Counsel contended that no culpability could be attached to the petitioner's actions.

7. It was next contended that as far as the bill discounting facilities extended and the discounting of various bill which turned out to be forged were concerned, the petitioner could not be held responsible for them because the customer, namely, A-1 had used the facilities which had been sanctioned. As and when the bill/*hundies* were presented, the petitioner as a borrower had no option but to honour them.

8. Learned counsel for the Respondent/CBI resisted the petition and submitted that all the contentions raised by the petitioner were appropriately dealt with by the trial Court and the order on charge does not require any interference.

9. I have considered the materials on record as also the charge-sheet. An isolated reading of the letter/report dated 02.11.89 may suggest that the petitioner had indeed inspected the premises. But the CBI in its report and charge-sheet has stated that the premises in question at Nangloi were not found to be those of the borrower. The alleged landlord was untraceable; the address

given was also incorrect. In these circumstances, *prima facie,* the assertion of due inspection by the Petitioner appears to be suspect. The allegations and the culpability of the petitioner stare on at the face. I, therefore, see no merit in the contention on behalf of the petitioner that he was merely performing his job and that after the forwarding of the report, the higher officials cleared the proposal on finding the firm creditworthy.

10. The further allegations in the charge-sheet show that no less than 8 bills were discounted by the petitioner at various points of time in January-February, 1990. All these bills were drawn on some firms which later on turned out to be bogus. In the light of these facts coupled with the grave suspicion regarding the intention of the borrower to defraud the Bank at the threshold stage, by using forged documents such as the Rent Deed and disclosing false information, the suspicion about commission of the offences by the petitioner, cannot be ruled out.

11. Section 19 (3) of the Prevention of Corruption Act, 1988 broadly enjoins the High Court, notwithstanding the provision in the Criminal Procedure Code had to be circumspect in interfering with the orders and findings unless it is convinced that failure of justice has been occasioned.

12. In the facts of this case, I find that no such failure of justice has occurred. I am, therefore, satisfied that no case for interference, in exercise of revisional jurisdiction is made out.

The petition is dismissed.

S. RAVINDRA BHAT,J

JULY 03, 2007
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